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11 UNITED STATES DISTRICT COURT

12 DISTRICT OF NEVADA

13 MARNI M. GUY, Individually and on
14 behalf of all other similarly situated,

15 Plaintiffs,

16 vs.

17 CASAL INSTITUTE OF NEVADA,
18 LLC dba AVEDA INSTITUTE LAS
19 VEGAS, ARTHUR J. PETRIE, JOHN
20 GRONVALL, and THOMAS
21 CIARNELLO,

22 Defendants.

CASE NO. 2:13-cv-02263-RFB-GWF

STIPULATION AND ORDER

23 Plaintiff and Defendants (“the parties”), by and through their attorneys of
24 record, hereby stipulate and agree to the following:

25 1. The issue in this action is whether the named plaintiff and the members
26 of the putative class, all of whom were enrolled students of defendants’ cosmetology
27 school, were employees for FLSA and Nevada minimum wage purposes of any of
28 the defendants during the periods of time they were assigned to work, or be
available to work, on paying customers at the salon that was part of defendants’
cosmetology school. The parties agree that such salon was part of the operations of
the cosmetology school conducted by defendant Casal Institute of Nevada LLC.

1 The claims made against all of the other defendants, who are alleged to be certain
2 individuals properly deemed as “joint employers” under the FLSA based up on their
3 relationship with Casal Institute, are derivative of the plaintiff’s claims against Casal
4 Institute. If Casal Institute is found to not be an employer of the plaintiff within the
5 meaning of the FLSA the other defendants also cannot be employers within the
6 meaning of the FLSA of the plaintiff.
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9 2. In light of the foregoing, the parties believe it they should defer all
10 other activity in this case and proceed at this time with summary judgment motions
11 on the issue of whether Casal Institute is, or could possibly be deemed, an
12 “employer” of the named plaintiff within the meaning of FLSA and/or Nevada law.
13 If that issue is decided upon summary judgment in favor of defendants this case will
14 be disposed of in its entirety. If it is not, the parties have agreed to defer the joint
15 employer, class action certification, and damages issues until after the Court decides
16 the parties’ respective summary judgment motions on the issue of whether Casal
17 Institute’s is, or can be, liable on the named plaintiff’s individual claims as such
18 plaintiff’s “employer” within the meaning of the FLSA and Nevada law.
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22 2. Thus, in order to preserve the resources of the Court and the parties, the
23 parties have agreed to proceed to brief and file their motions for summary on a
24 determination of liability as against only the corporate defendant, CASAL
25 INSTITUTE OF NEVADA LLC dba AVEDA INSTITUTE LAS VEGAS, and for
26 only those claims asserted on behalf of the named plaintiff, MARNI M. GUY,
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28

1 individually. Such motions for summary judgment will be filed on or before
2 December 30, 2015.

3 3. In doing so, the parties agree that discovery on the following topics
4 shall be held in abeyance until the Court renders a decision on the parties' respective
5 motions for summary judgment discussed in paragraph 2:
6

7 a. Production of electronic data files pertaining to the salon services
8 conducted in defendants' student salon by students, and the class
9 members' attendance and presence at that student salon, which
10 the parties agree are the "Millennium system data files" and the
11 "SMART system data files" as per the hearing held with the
12 Court on August 26, 2015;

13 b. Discovery pertaining to defendants' Affirmative Defenses
14 asserted in Defendants' Answer, Doc. No. 123, filed on
15 September 23, 2015; and

16 c. Discovery pertaining to the liability of the individual defendants,
17 John Gronvall, Arthur J. Petrie, and Thomas Ciarnello, for
18 claims asserted against such defendants under the Fair Labor
19 Standards Act.
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21 4. In the event summary judgment is granted in favor of the plaintiff, or
22 both parties' respective motions for summary judgment are denied, the parties agree
23 to confer about the remaining discovery to be conducted and provide to the Court,
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1 within 20 days after the Court enters its Order pertaining to the parties' respective
2 summary judgment motions, a Discovery Plan and Scheduling Order pertaining to
3 the remaining discovery, including a deadline for the filing of a class certification
4 motion.
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6 IT IS SO STIPULATED.
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8 Dated this 25th day of November, 2015

Dated this 25th day of November, 2015

9
10 /s/ Leon Greenberg
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25
26 **ORDER**
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28 IT IS SO ORDERED this 9th day of December, 2015.



HON. RICHARD F. BOULWARE
United States District Judge